

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Eladia Hernandez-Dominguez	§	
Plaintiff	§	Civil Action No. _____
	§	
V.	§	
	§	
The United States of America	§	
Defendant	§	

PLAINTIFF'S ORIGINAL COMPLAINT

A. Parties

1. Plaintiff is a resident of Houston, Harris County, Texas.
2. Defendant, The United States of America, may be served by delivering a copy of the summons and of the complaint to the United States Attorney for the Southern District of Texas. Defendant may also be served by sending a copy of the summons and of the complaint by registered or certified mail to the Attorney General of the United States at Washington, District of Columbia.

B. Jurisdiction

3. This action is brought pursuant to Federal Tort Claims Act, 28 U.S.C. § 2671, et. seq. and 28 U.S.C. §1346(b).
4. Venue is properly within the District under 28 U.S.C. § 1402(b) as the Plaintiff resides in the Southern District of Texas and the acts and/or omissions complained of occurred in the Southern District of Texas.

C. Conditions Precedent

5. Plaintiff timely presented her claim in writing to the United States Postal Service, part of the United States Government. This suit is filed within six months of the agency's

final written notice of its denial of the claim. 28 U.S.C. §2675(a).

D. Facts

6. On or about March 13, 2014, Plaintiff, Eladia Hernandez-Dominguez, was involved in an incident which occurred in Houston, Texas. At the time in question, Plaintiff sustained serious and disabling injuries when the motor vehicle she was in was suddenly, violently, and without warning hit by a motor vehicle owned by United States Government and driven by United States Postal Service's employee, Alton Matthews, while acting in the course and scope of employment.

E. Count 1 – Federal Tort Claims Act.

7. At the time and on the occasion in question, Alton Matthews was an employee of Defendant and was acting within the course and scope of his office or employment and operating the aforementioned motor vehicle in a negligent and careless manner in the following respects which, among others, may be shown at the trial of this cause:

- a. In failing to keep a proper lookout;
- b. In failing to timely make application of his brakes;
- c. In failing to timely swerve or otherwise maneuver his vehicle so as to avoid the collision made the basis of this suit;
- d. In failing to exercise ordinary care and operating the vehicle in a reasonable and prudent manner;
- e. In failing operate the vehicle in obedience to traffic laws and regulations;
- f. In violation of the Tex. Transp. Code Ann. § 545,401 et seq.;
- g. Driver inattention;
- h. In failing to control speed; and

- i. In failing to yield the right of way from a private drive.

Such action on the part of Alton Matthews constitutes negligence was the proximate cause of this incident and the resulting injuries and damages sustained by the Plaintiff. Under the laws of the State of Texas, a private person would be liable to the Plaintiff for these acts and/or omissions. In accordance with 28 U.S.C. § 1346(b), the United States of America is liable to Plaintiff for her damages for personal injuries described below. 28 U.S.C. §2674.

F. Damages

8. As a direct and proximate result of Defendant's negligence, Plaintiff has suffered the following injuries and damages:

- a. Physical pain and mental anguish in the past and future;
- b. Physical disfigurement in the past and future;
- c. Medical expenses in the past and future;
- d. Physical impairment in the past and future;
- e. Lost earnings;
- f. Loss of earning capacity; and
- g. Property damage.

9. Pleading further, in the alternative, if it be shown that Plaintiff was suffering from some pre-existing injury, disease, and/or condition, then such was aggravated and/or exacerbated as a proximate result of the occurrence made the basis of this lawsuit.

G. Prayer

10. WHEREFORE PREMISES CONSIDERED, Plaintiff, Eladia Hernandez-Dominguez, respectfully requests that Defendant United States of America be cited to

appear and answer herein, and that upon final trial, Plaintiff has judgment against Defendant for all actual damages sustained as requested herein in the sum of ONE HUNDRED FIVE THOUSAND THREE HUNDRED FORTY-SIX DOLLARS AND THIRTY-TWO CENTS (\$105,346.32), together with cost of suit, pre- and post-judgment interest, and for such other and further relief, both general and special, at law and/or in equity, to which she may show herself justly entitled.

Respectfully submitted,

STERN LAW GROUP

/s/ Deborah L. Bradley

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